

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA
ORIGINAL

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FAX - FILED

NOV 27 2009

ATTORNEY FOR RESPONDENT

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE THE PARENTING OF,
D.N.S. A MINOR,

Cause No.: DA 09-0521

ASHLEY N. WATERS,

Petitioner and Appellee,

and

CLAUDE DANIEL SMITH,

Respondent and Appellant.

**MOTION TO EXTEND
BRIEFING DEADLINE**

COMES NOW the Appellant (Mr. Smith) herein, by and through the undersigned, and
moves the Court to extend the briefing deadline in this matter.

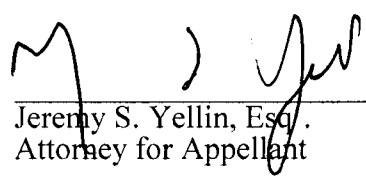
The basis for this motion is that despite numerous attempts, the undersigned's office has
yet to receive a copy of the transcript from the August 18, 2009, trial in this matter.

Additionally, the undersigned's wife was hospitalized in Great Falls, Montana, from
November 16, 2009, through November 25, 2009, for an undetermined amount of time, and the
undersigned needed to be available to her and take care of their seven (7) month old infant.

This motion is supported by the attached Affidavit of Jeremy S. Yellin, Esq.

The undersigned's office has contacted opposing counsel, who indicates that he has no
objection to the filing of this motion.

Dated this 27th day of November, 2009.



Jeremy S. Yellin, Esq.
Attorney for Appellant

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Certificate of Service

I hereby certify that on the 27th day of November, 2009, I;

☒ Mailed

☐ Hand-delivered

☒ Faxed

a copy of the forgoing document to the following:

Clerk of Montana Supreme Court
Ed Smith
Room 323, Justice Building- 215 North Sanders
P.O. Box 203003
Helena, Montana 59620-3003
FACSIMILE: (406) 444-5705

Terrance L. Toavs
Law Offices of Terrance L. Toavs
429 2nd Avenue South
Wolf Point, MT 59201
FACSIMILE: (406) 653-1665

I hereby certify that on the 27th day of November, 2009, I;

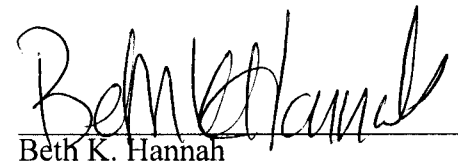
☒ Mailed

☐ Hand-delivered

☐ Faxed

a copy of the forgoing document to the following:

Claude Daniel Smith
40122 Dellwo Road
Charlo, MT 59824


Beth K. Hannah

Jeremy S. Yelling, Esq.
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ATTORNEY FOR RESPONDENT

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN RE THE PARENTING OF,
D.N.S. A MINOR,

Cause No.: DA 09-0521

ASHLEY N. WATERS,

Petitioner and Appellee,

and

CLAUDE DANIEL SMITH,

Respondent and Appellant.

**AFFIDAVIT IN SUPPORT
OF MOTION TO EXTEND**

STATE OF MONTANA

County of Hill

ss.

I, Jeremy S. Yellin, after being duly sworn, upon my oath, do depose and say as follows:

1. That your affiant is counsel for Respondent and Appellant;
2. That on September 18, 2009, the undersigned's office sent a letter to court reporter, Kelley Barstad, requesting a copy of the transcript of the trial proceedings conducted on August 18, 2009 (See attached, Exhibit **A**);
3. That on October 19, 2009, the undersigned's office sent a follow up letter to court reporter, Kelley Barstad, again requesting a copy of the transcript of the trial proceedings conducted on August 18, 2009 (See attached, Exhibit **B**);
4. That on November 18, 2009, the undersigned's office left a message with court reporter, Kelley Barstad, inquiring about the status of the trial transcripts, to which they received no reply;
5. That on November 19, 2009, the undersigned's office left a message with court reporter, Kelley Barstad, inquiring about the status of the trial transcripts, to which

1 they received no reply;

2 6. That on November 27, 2009, the undersigned's office will be sending a follow up
3 letter to court reporter, Kelley Barstad, inquiring about the status of the trial
4 transcripts;

5 7. That until the trial transcripts are received, your affiant is unable to research,
6 prepare, and draft any briefs on part of the Respondent and Appellant;

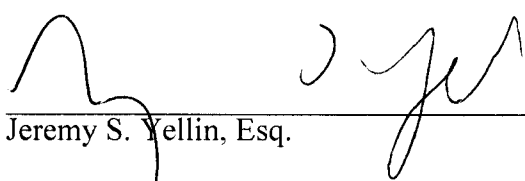
7 8. That your affiant's wife was hospitalized in Great Falls, Montana, November 16,
8 2009, through November 25, 2009;

9 9. That while your affiant's wife was hospitalized, it was imperative that he be
10 available to her;

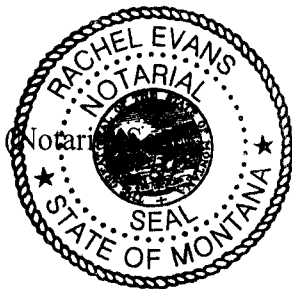
11 10. That while your affiant's wife was hospitalized, your affiant was caring for his
12 seven (7) month old infant;

13 11. FURTHER YOUR AFFIANT SAYETH NAUGHT.

14 Dated this 27th day of November, 2009.

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16 
17 _____
Jeremy S. Yellin, Esq.

18 SUBSCRIBED AND SWORN to before me this 27th day of November 2009.



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EXHIBIT A

JEREMY S. YELLIN, ATTORNEY at LAW

MAILING ADDRESS:

P. O. Box 564
Havre, MT 59501

Phone (406) 265-3303
Fax (406) 265-0600

OFFICE LOCATION:

419 4th Avenue, Suite A
Havre, MT 59501

Office entrance located on
North side of building

September 18, 2009

Kelley Barstad, Court reporter
501 Court Square, Box 6
Glasgow, MT 59230

RE: *In Re the Parenting of D.N.S., a minor*, Cause No.: DR-08-22

Dear Ms. Barstad:

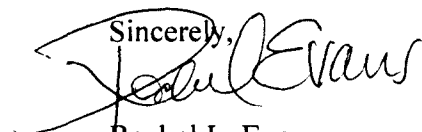
Please provide a copy of the transcript of the entire trial conducted in the above referenced matter on August 18, 2009.

Please be advised that this matter is being appealed to the Supreme Court of the State of Montana, and these transcripts are requested for such.

Upon your receipt and review, please contact our office to advise as to when we can expect to receive our copy of this transcript.

If you have any questions, please do not hesitate to contact our office.

Thank you for your attention and courtesies.

Sincerely,

Rachel L. Evans

RLE
enc.

EXHIBIT B

JEREMY S. YELLIN, ATTORNEY at LAW

MAILING ADDRESS:

P. O. Box 564
Havre, MT 59501

Phone (406) 265-3303

Fax (406) 265-0600

OFFICE LOCATION:

419 4th Avenue, Suite A
Havre, MT 59501

Office entrance located on
North side of building

October 19, 2009

Kelley Barstad, Court reporter
501 Court Square, Box 6
Glasgow, MT 59230

RE: *In Re the Parenting of D.N.S., a minor*, Cause No.: DR-08-22

Dear Ms. Barstad:

This letter is in follow up to September 18, 2009, letter the office sent you requesting a copy of the transcript of the entire trial in the above matter.

As of this date, we have not yet heard of the status of the transcript.

A brief is due by October 30, 2009, therefore we need a copy of the transcript as soon as possible.

Upon receipt of this letter, please contact the office immediately and advise of when we can expect to receive said transcript.

If you have any questions, please do not hesitate to contact our office.

Thank you for your attention and courtesies.

BKH

Sincerely,

Beth K. Hannah

EXHIBIT C

JEREMY S. YELLIN, ATTORNEY at LAW

MAILING ADDRESS:

P. O. Box 564

Havre, MT 59501

Phone (406) 265-3303

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OFFICE LOCATION:

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Office entrance located on
North side of building

November 27, 2009

Kelley Barstad, Court reporter
501 Court Square, Box 6
Glasgow, MT 59230

RE: *In Re the Parenting of D.N.S., a minor*, Cause No.: DR-08-22

Dear Ms. Barstad:

This letter is in follow up to numerous messages and two (2) letters sent on September 18, 2009, and October 19, 2009, regarding a copy of the entire transcript in the above matter.

As recently as November 18, 2009, and November 19, 2009, the office has attempted to contact you and received no reply.

Upon receipt of this letter, please contact the office to verify when Jeremy can expect a copy of the transcript. It is needed for a brief that is due, and will have to be continued due to not receiving the brief in a timely matter.

If you have any questions, please do not hesitate to contact our office.

Thank you for your attention and courtesies.

Sincerely,

Beth K. Hannah

BKH